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ROBERT W. BECKER & ASSOCIATES  
707 HIGHWAY 66 EAST  
SUITE B  
TIJERAS, NM 87059

EXAMINER

MEREK, JOSEPH C

ART UNIT

PAPER NUMBER

3727

DATE MAILED: 08/13/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/941,029

Applicant(s)

HATCH, MELVIN

Examiner

Joseph C. Merek

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3727

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 28 August 2001.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-16 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-16 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 28 August 2001 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 2.
- 4) ☐ Interview Summary (PTO-413) Paper No(s) \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

**DETAILED ACTION**

***Drawings***

The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the "base with apertures" and "the base is a separate component connected to the outer portion" must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 4, 7, 8, 11-13, 15, and 16 are rejected under 35 U.S.C. 102(b) as being anticipated by Cruickshank (US 1,109,323). Regarding claim 1, the outer portion 13 merges into the base 14 and extends away from the upper location. The support is metal. The support of Cruickshank '323 is capable of holding a container with a round or curved bottom. Regarding claim 4, the support is made from a single sheet of

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metal. Regarding claim 7, the upper portion is essentially cylindrical. Regarding claim 8, the base is a continuous sheet without apertures. Regarding claim 11, the base extends radially outwardly from where the base merges with the outer portion.

Regarding claim 12, the inner portion, the outer portion and the base are a monolithic component. Regarding claim 13, the base is formed by a lower part of said outer portion that is remote from the upper location of the inner portion. Regarding claim 15, the bottom is curved and has a small flat section. Regarding claim 16, the bottom of the inner portion is spaced from the plane of the base.

Claims 1, 4, 6, 7, 8, 11-13, 15, and 16 are rejected under 35 U.S.C. 102(b) as being anticipated by Cruickshank (US 1,392,868). Regarding claim 1, the outer portion 10 merges into the base 15 and the base extends away from the upper location. The base begins before the roll 15. The support is metal. The support of Cruickshank '868 is capable of holding a container with a round or curved bottom. Regarding claim 4, the support is made from a single sheet of metal. Regarding claim 6, see Fig. 2, where the outer portion is tapered. Regarding claim 7, the upper portion is essentially cylindrical. Regarding claim 8, the base is a continuous sheet without apertures. Regarding claim 11, the base extends radially outwardly from where the base merges with the outer portion. Regarding claim 12, the inner portion, the outer portion and the base are a monolithic component. Regarding claim 13, the base is formed by a lower part of said outer portion that is remote from the upper location of the inner portion. Regarding claim 15, the bottom is curved and has a small flat section. Regarding claim 16, the bottom of the inner portion is spaced from the plane of the base.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 2, 3, and 5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cruickshank '323 in view of Tietz. Regarding claims 2 and 3, Cruickshank '323 teaches a metal support but does not teach the specific metals. Tietz as seen in the Col. 1, teaches that heat conductive structures can be made of copper or aluminum. It would have been obvious to employ the copper or aluminum of Tietz in the support of Cruickshank '323 to take advantage of these high heat conductive materials or to maximize the amount of heat conducted. Regarding claim 5, Cruickshank '323 does not teach the laminate material. Tietz as seen in Figs. 2-7, teaches a heat conductive structure that is made from a metal laminate material. It would have been obvious to employ the laminate material of Tietz in the support of Cruickshank '323 to make a stronger or more conductive support.

Claims 2, 3, and 5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cruickshank '868 in view of Tietz. Regarding claims 2 and 3, Cruickshank '868 teaches a metal support but does not teach the specific metals. Tietz as seen in the Col. 1, teaches that heat conductive structures can be made of copper or aluminum. It would have been obvious to employ the copper or aluminum of Tietz in the support of

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Cruickshank '868 to take advantage of these high heat conductive materials or to maximize the amount of heat conducted. Regarding claim 5, Cruickshank '868 does not teach the laminate material. Tietz as seen in Figs. 2-7, teaches a heat conductive structure that is made from a metal laminate material. It would have been obvious to employ the laminate material of Tietz in the support of Cruickshank '868 to make a stronger or more conductive support.

Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable Cruickshank '323 in view of Emmer. Cruickshank '323 does not teach the substantially flat base. Emmer as seen in Fig. 2, teaches a similar structure with a substantially flat base. It would have been obvious to employ the substantially flat base of Emmer in the support of Cruickshank '323 to provide a more stable support.

Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable Cruickshank '323 in view of Emmer. Cruickshank '868 does not teach the substantially flat base. Emmer as seen in Fig. 2, teaches a similar structure with a substantially flat base. It would have been obvious to employ the substantially flat base of Emmer in the support of Cruickshank '868 to provide a more stable support.

Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over Cruickshank '323 in view of Margulies. Cruickshank '323 does not teach the base is a separate member from the outer portion. Margulies teaches a similar structure where the base is a separate element connected to the outer portion. It would have been obvious to make the base of Cruickshank '323 to provide another way of manufacturing the support.

Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over Cruickshank '898 in view of Margulies. Cruickshank '898 does not teach the base is a separate member connected to the outer portion. Margulies teaches a similar structure where the base is a separate element from the outer portion. It would have been obvious to make the base of Cruickshank '898 to provide another way of manufacturing the support.

Claim 14 is rejected under 35 U.S.C. 103(a) as being unpatentable over Cruickshank '323 in view of Wischusen, III. Cruickshank '323 teaches the outer portion being essentially cylindrical but does not teach that the base is square. Wischusen, III teaches a similar structure where the outer portion is essentially cylindrical and the base is square. It would have been obvious to employ the square base of Wischusen, III in support of Cruickshank '323 to provide an alternative design.

Claim 14 is rejected under 35 U.S.C. 103(a) as being unpatentable over Cruickshank '868 in view of Wischusen, III. Cruickshank '868 teaches the outer portion being essentially cylindrical but does not teach that the base is square. Wischusen, III teaches a similar structure where the outer portion is essentially cylindrical and the base is square. It would have been obvious to employ the square base of Wischusen, III in support of Cruickshank '868 to provide an alternative design.

**Conclusion**


The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Morgan et al is cited for teaching a container support with a concave inner surface. Golden is cited for teaching a container support with an outer portion that is tapered. Mesic is cited for teaching a support for a round bottom container. Sherman is cited for teaching a base that is attached to the outer portion.


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joseph C. Merek whose telephone number is (703) 305-0644. The examiner can normally be reached on Monday-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lee Young can be reached on (703) 308-2572. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 305-3579 for regular communications and (703) 308-3579 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1148.

Joseph C. Merek  
August 7, 2002



  
Stephen P. Garbe  
Primary Examiner